

**RAVALLI COUNTY
BOARD OF COUNTY COMMISSIONERS**

RESOLUTION NUMBER _____

**RESOLUTION TO ESTABLISH THE RAVALLI COUNTY
BOARD OF ADJUSTMENT**

WHEREAS, on November 7, 2006, the voters of Ravalli County enacted an interim zoning regulation via initiative entitled, "AN INTERIM ZONING REGULATION LIMITING SUBDIVISIONS TO A DENSITY OF 1 RESIDENCE PER 2 ACRES FOR A PERIOD OF ONE YEAR,"; and

WHEREAS, the interim zoning regulation states that the Commissioners shall appoint a Board of Adjustment pursuant to MCA 76-2-221(1) and "in the regulations and restrictions adopted pursuant to the authority of this part shall provide that the board of adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning resolution in harmony with its general purposes and intent and in accordance with the general or specific rules of this part;" and

WHEREAS, in accordance with MCA 76-2-222(1), the board of adjustment shall consist of "five members, each to be appointed for a term of 2 years and removable for cause by the board of county commissioners upon written charges and after public hearing," and

WHEREAS, after posting and legal notice, the Ravalli County Commissioners conducted a public hearing on the establishment of the Board of Adjustment on February 1, 2007.

NOW, THEREFORE, BE IT RESOLVED that the Ravalli County Board of County Commissioners hereby creates the Ravalli County Board of Adjustment, a five (5) person volunteer board with members to be appointed by the Ravalli County Board of County Commissioners. Per MCA 76-2-223, the Board of Adjustment shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this part or of any resolution adopted pursuant thereto;
- (b) To hear and decide special exceptions to the terms of the zoning resolution upon which said board is required to pass under such resolution;
- (c) To authorize upon appeal in specific cases such variance from the terms of the resolution as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the resolution will result in unnecessary hardship and so that the spirit of the resolution shall be observed and substantial justice done.

In exercising the above-mentioned powers, the Board of Adjustment may, in conformity with the provisions of the law and interim zoning regulation, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer from whom the appeal is taken.

BE IT ALSO RESOLVED that zoning variances may be applied for as set forth in the interim zoning regulation. In considering variance applications, the Board of Adjustment shall not grant a variance unless it makes findings based upon the evidence in each specific case that:

- (A) the variance is consistent with the general purposes of the interim zoning regulation, and will conform to all of the following requirements and stipulations; and
- (B) strict application of the Code requirements would result in great practical difficulties or hardship to the applicant (not mere inconvenience) and prevent a reasonable return on the property; and
- (C) the variance is the minimum deviation from such requirements that will alleviate the difficulties/hardship, and allow a reasonable return on the property; and
- (D) the plight of the applicant is due to circumstances not of his/her own making; and
- (E) the circumstances engendering the variance request are peculiar and not applicable to other property within the district; and
- (F) the variance will not alter the essential character of the area where the premises in question are located nor adversely affect the public health, safety and/or welfare; and
- (G) the variance will not in any manner place the subdivision in nonconformance with any adopted zoning regulation or comprehensive plan; and
- (H) the variance will not contribute to the emergency situation that exists in Ravalli County as defined in the interim zoning regulation and
- (I) the variance is in the public interest.

FURTHERMORE, once members have been appointed by the Ravalli County Board of County Commissioners, in accordance with MCA 76-2-221(2), "the board of adjustment shall adopt rules in accordance with the provisions of any resolution adopted pursuant to this part. Meetings of the board of adjustment shall be held at the call of the chairman and at such times as the board may determine. Such chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses."

BE IT ALSO RESOLVED that members of the Board of Adjustment are entitled to travel and other expenses incurred on Board business only. Members shall not receive a salary for their services on the Board.

PASSED AND ADOPTED this _____ day of January, 2006.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS

Greg Chilcott, Chairman

Alan Thompson, Member

Howard W. Lyons, Member

Attest: Regina Plettenberg, Clerk & Recorder